

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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RENARD T. POLK,

Plaintiff,

v.

ROBERT LEGRAND, et al.,

Defendants.

Case No. 3:14-cv-00073-MMD-VPC

ORDER

This Court granted summary judgment in favor of Defendants. (Dkt. no. 67.) Plaintiff moves for reconsideration ("Motion"). (Dkt. no. 71.) He subsequently moved to supplement his motion. (Dkt. no. 73.) Defendants have responded to Plaintiff's Motion, and Plaintiff has replied. (Dkt. nos. 72, 74.) For the reasons discussed below, Plaintiff's Motion is denied.

This action arose from Defendants' alleged confiscation of certain personal property and improper deductions from Plaintiff's gift coupon while he was incarcerated at the Lovelock Correctional Center. After screening pursuant to 28 U.S.C. § 1915A, the Court permitted four claims for an authorized, deprivation of property in violation of the Fourteenth Amendment's Due Process Clause to proceed.<sup>1</sup> (Dkt. nos. 5, 9.) In particular, Plaintiff was permitted to pursue Count I against Defendant Property Officer David Keener, Count III against Property Supervisor Terry Lindberg, Count V against Defendants R. Waldo and Dwayne Deal, and Count VIII against Defendants Albert Peralta and Pauline Simmons. (*Id.*)

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<sup>1</sup>The Court dismissed Counts VI and VII with leave to amend, but Plaintiff did not elect to amend. (Dkt. no. 9.)

1 The Magistrate Judge issued separate Reports and Recommendations (“R&R”) 2 (dkt. nos. 44 & 50) relating to Plaintiff’s Motion for Preliminary and Permanent Injunction 3 (dkt. no.27) and Defendants’ Motion for Summary Judgment (dkt. no. 34). The 4 Magistrate Judge recommended that Plaintiff’s Motion for Preliminary and Permanent 5 Injunction (“Plaintiff’s PI Motion”) be denied (dkt. no. 44.) and Defendants’ Motion for 6 Summary Judgment (“Defendants’ Motion”) be granted (dkt. no. 50). Plaintiff objected to 7 the former R&R, but not the latter R&R recommending granting of summary judgment. 8 (Dkt. no. 67.) The Court adopted the Magistrate Judge’s latter R&R and granted 9 summary judgment; the Court denied Plaintiff’s PI Motion as moot and declined to 10 accept the R&R relating to the PI Motion. (*Id.*) Plaintiff now asks the Court to reconsider.

11 A motion to reconsider must set forth “some valid reason why the court should 12 reconsider its prior decision” and set “forth facts or law of a strongly convincing nature to 13 persuade the court to reverse its prior decision.” *Frasure v. United States*, 256 14 F.Supp.2d 1180, 1183 (D. Nev. 2003). Reconsideration is appropriate if this Court “(1) 15 is presented with newly discovered evidence, (2) committed clear error or the initial 16 decision was manifestly unjust, or (3) if there is an intervening change in controlling 17 law.” *Sch. Dist. No. 1J v. Acands, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). “A motion for 18 reconsideration is not an avenue to re-litigate the same issues and arguments upon 19 which the court already has ruled.” *Brown v. Kinross Gold, U.S.A.*, 378 F.Supp.2d 1280, 20 1288 (D. Nev. 2005). Mere disagreement with an order is an insufficient basis for 21 reconsideration. Nor should reconsideration be used to make new arguments or ask the 22 Court to rethink its analysis. See *N.W. Acceptance Corp. v. Lynnwood Equip., Inc.*, 841 23 F.2d 918, 925-26 (9<sup>th</sup> Cir. 1988).

24 Plaintiff argues that the Court erred in finding that he failed to object to the R&R 25 relating to Defendants’ Motion and cite to his supplement to his objection to the R&R 26 relating to his PI Motion as support. However, Plaintiff’s supplement was filed on May 27 11, 2015, two days before the Magistrate Judge issued the R&R recommending 28 granting Defendants’ Motion. (Dkt. nos. 47, 50.) More importantly, Plaintiff’s failure to

1 object did not affect the Court's review of the Magistrate Judge's recommendation  
2 because the Court conducted a de novo review.

3 Plaintiff's Motion asserts the merits of his claims — that prison personnel restricts  
4 and limits his personal and property rights. (Dkt. no. 71 at 3.) However, other than the  
5 part of Count VIII relating to allegations of unauthorized deductions from Plaintiff's  
6 inmate account in November 2013, Plaintiff's claims were dismissed on procedural  
7 grounds — expiration of the statute of limitations and failure to exhaust administrative  
8 remedies. As for the remaining Count VIII, the Court found that the challenged  
9 deductions are authorized by state law. (Dkt. no. 50 at 11.) Plaintiff's supplement (dkt.  
10 no. 73.) similarly fails to provide a valid reason for the Court to reconsider its Order.

11 It is therefore ordered that Plaintiff's motion for reconsideration (dkt. no. 71) is  
12 denied. Plaintiff's supplemental motion for reconsideration (dkt. no. 73) is denied.

13 DATED THIS 10<sup>th</sup> day of December 2015.

A handwritten signature in blue ink, appearing to read 'Miranda M. Du', is written over a horizontal line.

MIRANDA M. DU  
UNITED STATES DISTRICT JUDGE